

NetChoice *Promoting Convenience, Choice, and Commerce on The Net*

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Rep. Graham Filler, Chair
House Judiciary Committee
Michigan House of Representatives
Lansing, MI 48933

September 8, 2020

RE: Support for SB 384 and 385, A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 465 (MCL 750.465).

Dear Chairman Filler and members of the committee:

NetChoice enthusiastically supports SB 384 and 385. These bills bring Michigan's ticket laws into the 21st Century by enabling resale at market rates and creating important consumer protections.

SB 384 and 385 maintains consumer choice, convenience, and market competition by:

- allowing fans to more easily resell tickets by removing archaic restrictions
- preventing the use of technology to circumvent ticket website access measures
- making illegal deceptive ticketing websites domains

Protecting Fans Ability to Freely Resell Their Tickets

SB 384 and 385 update an 80-year-old law that restricts Michigan fans' ability to sell at market prices. Michigan stands virtually alone with this restriction that harms the ability of fans to recoup their ticket expenses.

Today, Michigan fans cannot resell their tickets for more than face value. SB 384 and 385 move Michigan into parity with most of the nation by allowing fans to resell at market-rates. By passing SB 384 and 385, Michigan will finally allow fans paying a transaction fee for their tickets to be made whole.

Making it illegal to use "Bots" for Ticket Scalping

States across the country have outlawed the use of computer software "bots" to circumvent ticket sellers' security or ticket control protections.

The New York Attorney General found that bots allowed brokers to grab hundreds of tickets in the first few seconds after tickets go on sale, as seen in these documented examples:

1,012 tickets in **1 minute**

U2 2015 Tour

Madison Square Garden

Bought by one bot on December 8, 2014, for a July 19, 2015 concert.

520 tickets in **3 minutes**

Beyoncé

Barclays Center

Bought by one Bot on March 4, 2013 for an August 5, 2013 concert.

By prohibiting these circumvention techniques, SB 384 and 385 help ensure that one group doesn't use "bots" to grab hundreds of tickets the minute they go on sale.

Making Illegal Deceptive Website Domains

Fans across Michigan regularly search online for tickets to their favorite concerts and shows. Unfortunately, many fans are misled by deceptive domain names in search results, which are designed to trick fans into thinking they are seeing unsold seats offered by the venue.

Take for example, a fan looking to see the popular musician Luke Bryan coming to Ford Field for a concert last October.

When a Michigan fan searches for "luke bryan ford field", the first page of search result shows 2 web domains that are designed to deceive fans into thinking they are the official website of Ford Field:

35,300,000 Results

Any time ▾

Luke Bryan Tickets - Ford Field in Detroit, MI

<http://ford.fielddetroit.org> ▾

Ad Luke Bryan at Ford Field in Detroit, MI - Get Your Tickets Online Today.

Luke Bryan Ford Field - 2019 Tickets On Sale Today

<https://fielddetroit.com> ▾

Ad Luke Bryan Tour 2019 Resale Tickets Ford Field Detroit, MI. Instant Download. Exclusive Tickets Online. Last Minute Deals Here. Save Up To 20% Now.

Amenities: Interactive Maps, Buy Seats Online, Huge Selection, Low Prices

4/5 ★★★★★ (3,232 reviews)

The domain names **ford.fielddetroit.org** and **fielddetroit.com** are unaffiliated with Ford Field and would be an obvious violations of SB 384 and 385, which prohibit unauthorized uses of the name of the actual venue, Ford Field.

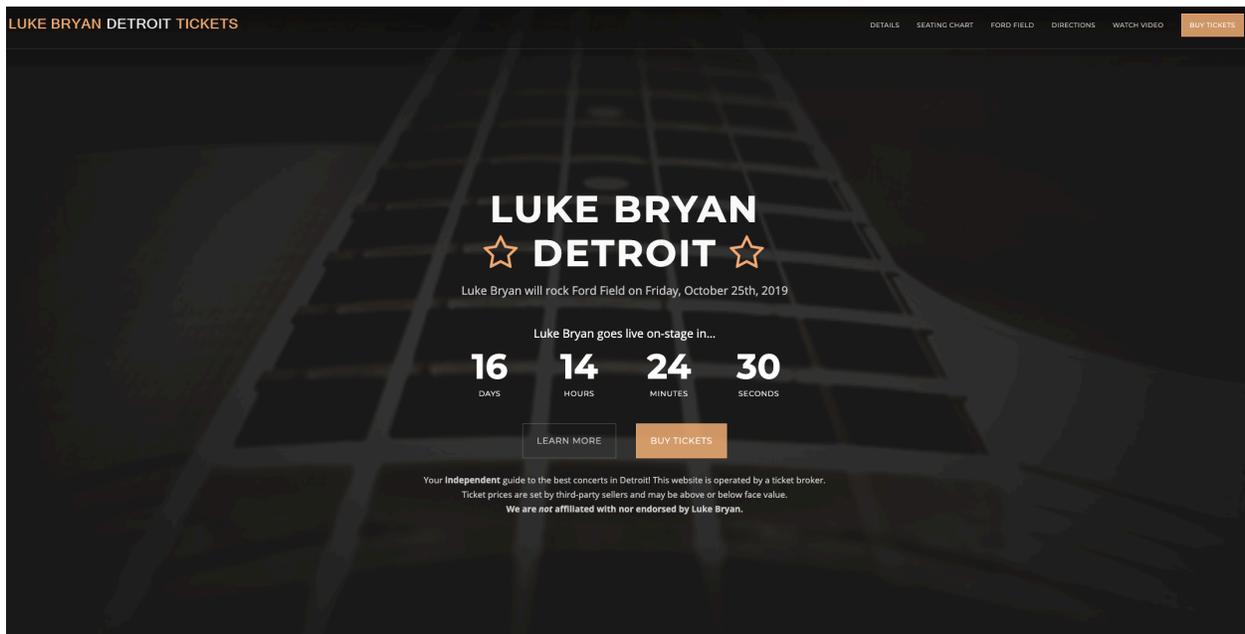
Moreover, a fan's search for "luke bryan ford field" brings up one of the most egregious examples of a deceptive domain name pretending to be the artist:

Luke Bryan Detroit Tickets | Ford Field - October 2019

<https://www.lukebryandetroit.net> ▼

The trio will perform live at **Ford Field** this October, and because tickets for this **Luke Bryan Detroit concert** are on sale now, you can be there in person when he performs new songs like "Light It Up" and "Most People Are Good" alongside old favorites like "Country Girl (Shake It for Me)" and "Play It Again."

The domain name **LukeBryanDetroit.net** is a flagrant violation of SB 384 and 385's prohibition of unauthorized use of the name of the artist. And that deceptive domain takes a fan to a web page that is further designed to deceive:



The fine-print at the bottom of the screen above does little to inform a Luke Bryan fan that the site is not in any way affiliated with the actual artist.

Why would ticket brokers go to such great lengths to deceive a fan into thinking they have landed on the official website showing unsold seats?

That becomes clear when you click on "BUY TICKETS" on that page, which takes you to a page showing only resale tickets, at markups of nearly 200% over unsold seats that are still available at face value:

The screenshot shows a ticket listing on the Detroit Tickets website. The event is 'Luke Bryan, Cole Swindell & Jon Langston' on 'Fri - Oct 25' at 'Ford Field, Detroit, MI'. The listing shows several 'Floor J' tickets for \$184 each. A seating chart to the right shows the arena layout with sections A through J, Pit, Club, and Suites. A yellow box on the chart indicates '63 tickets from \$184' in section J.

Note that a few broker resale seats are shown in section Floor J row 22 for \$184.

Meanwhile, there were over 60 unsold seats in Floor j section available for that show, on the official website for the Ford Field. The actual venue offers better Floor J seats at for \$99, as seen below:

The screenshot shows the Ticketmaster website for 'Luke Bryan: Sunset Repeat Tour 2019' on 'Fri - Oct 25' at 'Ford Field, Detroit, MI'. The selected seat is in section J, row 11, seat 26, priced at \$599.75 + Fees. The seating chart shows a grid of seats with a small inset of the arena.

This deceptive domain ticket website is charging nearly twice the face value of seats in the same section that were readily available.

These deceptive domains add no value for consumers when unsold seats are still available at the venue/promoter website. And when a show is actually sold-out, fans can turn to trusted secondary market websites where they can see a larger selection of resale seats.

As you can see, there is little to alert Michigan fans that this site has no affiliation with the artist, tour, or venue. These deceptive sites may have fine-print disclosures about their lack of affiliation with the artist or venue, but such disclosures are rarely noticeable to fans.

SB 384 and 385 would make this example an “unfair or deceptive trade practice” and subject the owner to enforcement and penalty provisions.

Deceptive domain names are luring Michigan fans into over-paying for a small selection of resale seats offered by professional ticket brokers. Those fans are not aware that unsold are actually available at the venue website. The Better Business Bureau has logged hundreds of complaints against these tactics.

A good way to stop this deception is to prohibit misuse of artist or venue names in domain names. Other states have taken action to stop these deceptive domains. Maryland and New Jersey enacted laws criminalizing these deceptive domain names. The Connecticut Attorney General and the Federal Trade Commission settled with two notorious deceptive domain operators, resulting in a permanent injunction and \$1.4 million in fines.¹

Also, the approach taken by SB 384 and 385 is on solid legal grounds. The US Supreme Court made clear that state can enact laws curbing this type of misleading commercial speech.²

In the case of this bill it goes directly at commercial speech that is misleading.

Now is the Time to Enact SB 384 and 385

Michigan should join other states in stopping this deception and rights to sell and empowering fans to sell at the prices they choose. Now is the time to pass SB 384 and 385 and help protect and empower Michigan consumers.

Sincerely,



Carl Szabo
Vice President and General Counsel, NetChoice

NetChoice is a trade association of e-Commerce and online businesses. www.netchoice.org

¹ Federal Trade Commission, *TicketNetwork and Marketing Partners Ryadd and Secure Box Office Settle Charges of Deceptively Marketing Resale Tickets* (July 24, 2014).

² See, *Central Hudson Gas & Electric Corp. v. Public Service Commission* 447 U.S. 557 (1980). The US Supreme Court in an 8–1 decision, created the four-step test for when commercial speech can win on a first amendment claim: (1) the speech has to concern a lawful activity and *cannot be misleading*; (2) the asserted governmental interest is substantial, (3) the regulation “directly advance[s] the governmental interest asserted,” and (4) the regulation is “no more extensive than is necessary to serve the interest.”

Michigan Fans Want to Control their Tickets and Support SB 384|385 and HB 4885|4886

I bought it, I own it



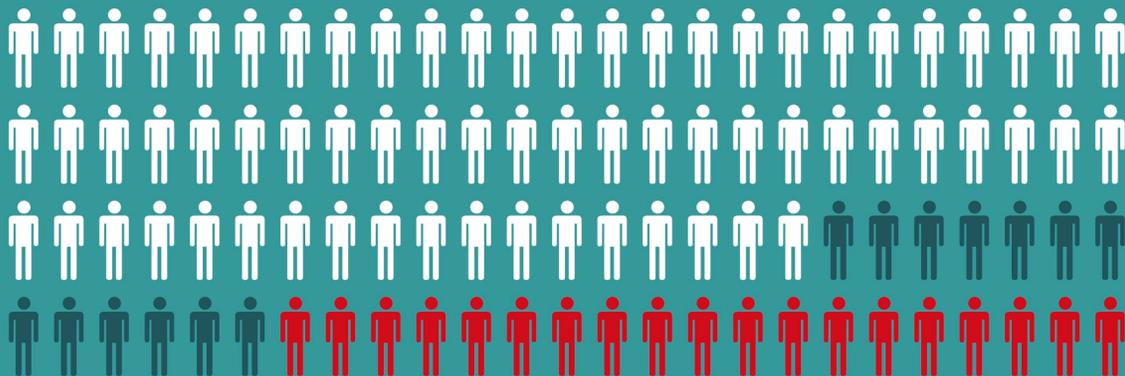
80% of those polled said it is their choice as to what they do with their tickets. Only 7% said event organizers can prevent transferring or reselling. 13% not sure or other.

Update MI Law on Ticket Resale Prices

62% of those polled said MI should update its laws on ticket price restrictions. 22% said the ticket issuer should determine the resale price.



68% of Michigan Fans SUPPORT legislation like SB 384|385 and HB 4885|4886 - allowing fans to resell at prices they choose



68% of those polled said the ticket purchaser should determine the resale price. Only 20% said the ticket issuer should determine the resale price. 13% were unsure.